

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

Lewis Edward Byrd, III,

Plaintiff,

v.

Brandon Arenz,

Defendant.

Civil Action No: 17-CV-191-JDP

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION TO
COMPEL DISCOVERY**

NOW COMES Defendant Brandon Arenz ("Arenz"), as and for Arenz' response to Plaintiff's motion to compel discovery. Plaintiff's motion should respectfully be denied because:

- 1) Defendant has already fully responded to Plaintiff's written motions/demands for discovery, dated 2/5/18 and 2/14/18; and
- 2) Plaintiff is seeking documents/material NOT in Arenz' possession/control, nor in the possession or control of Arenz former employer at the City of Hillsboro Police Department (located in Vernon County, WI).

I. Background Facts

Defendant Arenz is an adult resident of Wisconsin, who was formerly employed with the City of Hillsboro Police Department. (Prochnow Affidavit, paragraph 2). The City of Hillsboro is located in Vernon County, WI. (Prochnow Affidavit, paragraph 3). At the time of this alleged incident on August 13, 2016, it is undisputed that Defendant Arenz was working in the course and scope of his

Police Department, which includes his resignation letter, and all of Arenz' certifications and re-certifications contained therein. (Prochnow Aff., Exh. 3.)

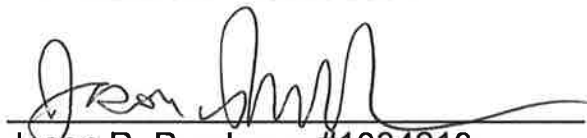
And lastly, Plaintiff, for the first time through this Motion to Compel, is NOW demanding Items 4) and 5), which are BRAND NEW DEMANDS for discovery, which Defendant is seeing for the first time in Plaintiff's motion to compel dated, March 19, 2018. (Prochnow Aff. at ¶ 11.) These particular items either do not exist or are not in Defendant's possession/control, but they are NOT a proper subject for a motion to compel, when the Plaintiff had not previously demanded same. (See Prochnow Aff. ¶ 11-12.)

For all the above reasons, Plaintiff's motion should be denied.

Respectfully submitted.

Dated: March 28, 2013

Lind, Jensen, Sullivan & Peterson
A Professional Association

A handwritten signature in black ink, appearing to read "Jason Prochnow", written over a horizontal line.

Jason R. Prochnow #1034213
Attorneys for Defendant
1300 AT&T Tower
901 Marquette Avenue South
Minneapolis, Minnesota 55402
(612) 333-3637
jason.prochnow@lindjensen.com